

REMARKS

The Office Action objects to the application under 37 CFR 1.172(a) as allegedly lacking the written consent of all assignees owning an undivided interest in the patent. The Office Action additionally alleges that the reissue oath/declaration filed with the application is defective. Claims 1-58 are rejected as being based upon a defective reissue declaration under 35 U.S.C. § 251. The Office Action further sets forth a requirement for the Applicant to provide the Office with information pertaining to the status/resolution of litigation involving U.S. Pat. No. 5,943,676.

Note on the Status of the Claims

Applicant notes that the Office regards Claims 1-58 as pending, when Claims 1-49, 51-55, and 57-58 should be pending. As noted by the Applicant's undersigned representative in a conversation with the Examiner on February 7, 2011, the Office appears to have misplaced the Supplemental Amendment filed and received by the Patent Office on July 26, 2002, in which Claims 50 and 56 were canceled and Claims 7, 30, 35, 40, 42, and 46 were amended. Accordingly, the amendments filed on July 26, 2002 were not considered by the Examiner, as the Examiner did not have access to the Supplemental Amendment. In view of the conversation with the Examiner, Applicant resubmitted the Supplemental Amendment of July 26, 2002 for consideration by the Office on February 15, 2011. As such, Applicant respectfully requests that in considering this response, enter and consider the amendments made in the Supplemental Amendment of July 26, 2002.

The Objection under 37 CFR 1.172(a) is Overcome

Applicant has submitted a fully compliant Consent of Assignee Intellisync Corporation concurrent with this response. Accordingly, Applicant respectfully submits that the objection under 37 CFR 1.172(a) is overcome.

The Reissue Oath/Declaration

Applicant has submitted, concurrent with this response, a new Reissue Declaration executed by Inventor David J. Boothby, which addresses the alleged defects noted in Section 9 of the Office Action. As such, Applicant respectfully submits that all defects alleged with respect to the originally filed Reissue Declaration have been overcome. Applicant further respectfully submits that because the new Reissue Declaration is non-defective, the rejection of the pending claims for being based upon a defective reissue declaration is overcome.

The Resolution of Litigation Involving U.S. Pat. No. 5,943,676

Applicant is aware of two settled litigation proceedings involving U.S. Pat. No. 5,943,676. The first proceeding is Civil Docket # 4:02-cv-5708-DLJ before the Northern District of California. According to publicly available information, this proceeding was dismissed on March 12, 2004 without a dispositive ruling on claim validity. The second proceeding is Civil Docket # 4:02-cv-01916-DLJ before the Northern District of California. According to publicly available information, this proceeding was dismissed on March 9, 2004 in response to a settlement agreement without a dispositive ruling on claim validity. Applicant is unaware of any other proceedings in which U.S. Pat. No. 5,943,676 is or was involved.

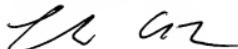
Appl. No.: 09/939,526
Amdt. dated February 24, 2011
Reply to Office Action of September 24, 2010

CONCLUSION

In view of the remarks presented above, it is respectfully submitted that all of the present claims of the present application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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